

## Equal Opportunity Monitors A Comparative Analysis of Selected Successful Programs

### Best Monitoring Practices

Hard Hatted Women, a tradeswomen's advocacy group, monitored the **Metzenbaum Federal U.S. Courthouse in Cleveland** from 1999 to 2001, a 3.5-year project that cost about \$350 million. The Chicago office of the federal General Services Administration (GSA) stipulated in its contracts that its hiring goal was 25% minorities and 8% women; ultimately, minorities and women worked approximately 18% and 8.4% of the total hours on the project, respectively.

- Monitoring centered on a monthly meeting of the monitor, construction management, unions, government representatives, and interested community groups. Each contractor submitted its report of hours worked on the project by women and minorities prior to the meeting. During meetings the group reviewed each contractor's numbers and worked to devise strategies to improve performance where necessary. Both management and labor unions attended these meetings, which encouraged the rapid development of practical, results-oriented solutions. The monitor attributed the success of the project to the strong commitment of the relevant officer at the GSA, sincere and practical efforts by all parties, and the fact that several general contractors started withholding payments from their subcontractors until the latter could show they were making good-faith efforts.
- The monitor also performed outreach and recruitment activities as needed, but did not train supervisors or tradespeople regarding equal employment opportunity (EEO) issues. The contractors' reports of hours worked were verified by comparing the reports with log entries based on the site walks. The monitor walked the site about once weekly to talk to targeted workers informally and get a sense of how they were doing, educate tradespeople on EEO matters, and to monitor the site for safety, bathroom cleanliness, and obvious EEO violations like pornography or inappropriate work assignments.

Compliance U.S.A., monitored minority and female labor participation on the **Portland, Maine Bridge Replacement Project**, which lasted about four years and cost \$157 million. The Maine Department of Transportation hoped to meet the federal goal that 6.9% hours of the project be worked by women; in fact, women worked 8% of the skilled trade hours and 9.4% of the construction labor hours overall.

- The monitor employed an assistant to verify compliance paperwork, and spent approximately 25% of her time walking the site. This underlined the importance of EEO on the site, and provided opportunities for informal discussion with workers and management. She spent roughly 15% of her time giving talks and site tours with community organizations and community colleges in order to recruit new workers, and another 15% in compliance reviews

with contractors. The monitor also met with each on-the-job trainee for about thirty minutes every month to make sure that they were receiving adequate training, and asked contractors to give apprentices weekly verbal evaluations so that both they and the apprentices were aware of expectations and progress made. Because Maine state law also requires annual sex harassment training for state contractors, the monitor performed most of the sex harassment and other workplace diversity trainings.

- Pre-apprenticeship, referral, and training systems for women were provided by external groups, and the monitor acted as a liaison with these groups. Childcare was offered through a YMCA located close to the site and was paid for through project funds.

Martinsek & Associates and Prism Technical Management in **Milwaukee** have both participated as monitors and in other capacities in a number of important construction projects in the Milwaukee area since the mid-1990's, including the **Midwest Express Center (now the Midwest Conference Center)**, the **Miller Park baseball stadium**, and an ongoing contract with the **Milwaukee Public Schools**. Generally, Martinsek monitored the utilization of minority- and women-owned businesses by contractors, while Prism was involved in the participation of individual minority and female construction workers, sometimes as a monitor and sometimes as a direct employee of contractors. In their earlier projects, Milwaukee tended to set goals of 25% participation by minority-owned businesses and 5% participation by women-owned businesses. Workforce participation goals varied according to the source of funds, and this resulted in female workforce participation of 6-7%. Community organizations took on job training and referral tasks; these were not the duties of the monitors.

### **Reporting Techniques**

Almost all of the monitors used forms that required contractors to provide information about the race, gender, specific trade, and level of training of their workers, as well as the number of hours worked. However, there was considerable variation in how this information was collected.

The Cleveland monitor analyzed the contractors' Office of Federal Contract Compliance Monthly Employment Utilization Report (CC-237) forms. Certain contractors were consistently late with these forms or never turned them in at all; best results were obtained when contractors were required to submit them a week before monthly meetings.

The Maine monitor had a part-time office assistant who simply analyzed the certified payroll forms that contractors submitted to the Maine State Department of Transportation, which then provided copies to the monitor's office.

The Miller Park job site in Milwaukee was set up with electronic card readers: targeted construction workers were provided with electronic tracking cards, and they simply scanned themselves in and out of the job site each day. This process eliminated many reporting problems and allowed for sophisticated computer analysis of hours worked. As to M/WBE participation, contractors were required to submit monthly reports, and were not paid for their invoices if the reports were not current. Martinsek validated 10% of these reports, and also validated each bill over \$10 million.

## **Contracts and Penalty Structures**

The monitors all agreed that the most important factor contributing to the success of their programs was that the government entity initiating the contract was dedicated to employment equity and made this clear in all bidding materials and contracting documents.

For the Cleveland courthouse, the contracts between contractors and the Chicago GSA specified the hiring goals and required contractors to make a “*good faith effort*” to meet those goals. The contracts required contractors to submit monthly reports on hours worked, and if the hours were inadequate, to explain at a public meeting why and what they planned to do to improve the situation. Certain contractors withheld payment from subcontractors until the latter showed that they were making a good faith effort.

In the Maine project, the contracts required contractors to show themselves to be “*in compliance*” with the contract, that is, making tangible and reasonable efforts toward the contract hiring goals. Although penalties were developed, the monitor did not apply them because the project goals were exceeded. There was no contractual reporting requirement beyond the pre-existing statutory requirement of submitting a monthly certified payroll.

To summarize the various Milwaukee projects, bidders were required to submit an action plan with each bid explaining how they planned to meet the contractual hiring goals, and contracts with successful bidders specified that invoices would not be paid if contractors had not reported their progress on their action plans. Those who had not complied with their plans had to document why they had failed, and had to contribute to a community construction employee training fund. In future projects, Milwaukee will require contractors to submit with their bids affidavits from all subcontractors stating that they are aware of and will comply with the contractors’ plans.

## **Funding**

The Cleveland monitoring contract paid \$50,000 per year to monitor a project with a budget of \$350 million. It was funded from the construction budget. The monitor reported that this amount was wholly inadequate and drastically restricted her work, permitting her only to monitor hours worked and prohibiting extensive outreach and training.

The Maine monitoring contract was for \$300,000, slightly less than 0.2%, for a four-year, \$157 million project. The monitoring budget was considered part of the project overhead, and the Maine DOT provided office space and computer resources on-site at no extra cost.

The Milwaukee monitors were each paid an undisclosed hourly rate to monitor the participation of WMBE’s and workforce composition for the length of their projects.

## **Successful Hiring/Retention Techniques**

Many of the monitors said that their greatest successes had been in convincing contractors to hire women, and said little about what techniques they used to enhance the retention of women once hired. Certainly some monitors worked very hard to educate supervisors about what it is like to be the only

woman on a construction site and to discourage harassment, snubs, cold shoulders, and unequal task assignments, and felt that these changes were important in convincing women to stay. But other monitors said that the sheer number of women on their sites worked by itself to make the environment a good one for women to work in, or that pre-apprenticeship programs had made an important difference by screening out women who would not have enjoyed a job in the construction trades in any event.

### **General Observations**

All of the monitors made certain points in common that bear repeating.

- All the monitors emphasized that a successful project must have the unwavering commitment of the “owner” of the project, whether this is a government body or a government representative in charge of administering the project. The owner will have to communicate to contractors from the very first bids that this is an unusual project in which hiring goals are mandatory, not aspirational.
- Although support from the owner of the project is the most important factor, community political pressure is very effective in helping owners and other politicians to stay committed to equal employment opportunity. The message is that this project is a public endeavor expected to have an impact on the local workforce and economy, not merely a construction contract for a public building.
- Hiring goals need to be buttressed with rewards for compliance, penalties for failure, and plenty of technical support so that contractors can meet their hiring goals by contacting named referral and training sources. Many monitors were enthusiastic about using contractors’ past success in hiring women as a factor in the awarding of future contracts.
- Contractors need to be exhorted that compliance is an everyday process and cannot be remedied at the end of the project if it is discovered that goals have not been met. One monitor encouraged contractors to hire one woman for every four sequential males hired; another monitor encouraged contractors to plan to hire more women than required by the goal so that they could stay in compliance even when unforeseen difficulties arose.
- It is important that someone leading the monitoring body has extensive experience in the construction industry. An experienced monitor will not be fooled by common pitfalls and stratagems in reporting, will have credibility among supervisors when mediating problems with employees, and can knowledgeably negotiate long-term solutions when contractors are not meeting their goals.

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